



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5284

Introduced 1/31/2022, by Rep. Dagmara Avelar

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-106.2

Amends the Eviction Article of the Code of Civil Procedure. Provides that it is an affirmative defense to an eviction action if the court finds that the demand for possession is based upon a demand for possession relating to the entry of a barred individual onto any portion of the premises where the tenant, lessee, or household member who was the victim of domestic violence, sexual violence, stalking, or dating violence did not knowingly consent to the barred person entering the premises or a valid court order permitted the barred person's entry onto the premises. Provides that nothing in a provision regarding an affirmative defense for violence precludes a landlord from exercising any rights the landlord may have under existing local, State, federal, or common law to bar an individual who is not a tenant or lessee or member of the tenant's or lessee's household. Removes provisions providing that: a landlord shall have the power to bar the presence of a person from the premises owned by the landlord who is not a tenant or lessee or who is not a member of the tenant's or lessee's household; and a landlord may give notice to a person that the person is barred from the premises owned by the landlord.

LRB102 24790 LNS 34034 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 9-106.2 as follows:

6 (735 ILCS 5/9-106.2)

7 Sec. 9-106.2. Affirmative defense for violence, ~~barring~~
8 ~~persons from property.~~

9 (a) It shall be an affirmative defense to an action
10 maintained under this Article IX if the court makes one of the
11 following findings that the demand for possession is:

12 (1) based solely on the tenant's, lessee's, or
13 household member's status as a victim of domestic violence
14 or sexual violence as those terms are defined in Section
15 10 of the Safe Homes Act, stalking as that term is defined
16 in the Criminal Code of 2012, or dating violence;

17 (2) based solely upon an incident of actual or
18 threatened domestic violence, dating violence, stalking,
19 or sexual violence against a tenant, lessee, or household
20 member;

21 (3) based solely upon criminal activity directly
22 relating to domestic violence, dating violence, stalking,
23 or sexual violence engaged in by a member of a tenant's or

1 lessee's household or any guest or other person under the
2 tenant's, lessee's, or household member's control, and
3 against the tenant, lessee, or household member; or

4 (4) based upon a demand for possession relating to the
5 entry of a barred individual onto any portion of the
6 premises pursuant to subsection (f) where the tenant,
7 lessee, or household member who was the victim of domestic
8 violence, sexual violence, stalking, or dating violence
9 did not knowingly consent to the barred person entering
10 the premises or a valid court order permitted the barred
11 person's entry onto the premises.

12 (b) When asserting the affirmative defense, at least one
13 form of the following types of evidence shall be provided to
14 support the affirmative defense: medical, court, or police
15 records documenting the violence or a statement from an
16 employee of a victim service organization or from a medical
17 professional from whom the tenant, lessee, or household member
18 has sought services.

19 (c) Nothing in subsection (a) shall prevent the landlord
20 from seeking possession solely against a tenant, household
21 member, or lessee of the premises who perpetrated the violence
22 referred to in subsection (a).

23 (d) Nothing in subsection (a) shall prevent the landlord
24 from seeking possession against the entire household,
25 including the tenant, lessee, or household member who is a
26 victim of domestic violence, dating violence, stalking, or

1 sexual violence if the tenant, lessee, or household member's
2 continued tenancy would pose an actual and imminent threat to
3 other tenants, lessees, household members, the landlord or
4 their agents at the property.

5 (e) Nothing in subsection (a) shall prevent the landlord
6 from seeking possession against the tenant, lessee, or
7 household member who is a victim of domestic violence, dating
8 violence, stalking, or sexual violence if that tenant, lessee,
9 or household member has committed the criminal activity on
10 which the demand for possession is based.

11 (f) Nothing in this Section precludes a landlord from
12 exercising any rights the landlord may have under existing
13 local, State, federal, or common law to bar an individual who
14 is not a tenant or lessee or member of the tenant's or lessee's
15 household. A landlord shall have the power to bar the presence
16 of a person from the premises owned by the landlord who is not
17 a tenant or lessee or who is not a member of the tenant's or
18 lessee's household. A landlord bars a person from the premises
19 by providing written notice to the tenant or lessee that the
20 person is no longer allowed on the premises. That notice shall
21 state that if the tenant invites the barred person onto any
22 portion of the premises, then the landlord may treat this as a
23 breach of the lease, whether or not this provision is
24 contained in the lease. Subject to paragraph (4) of subsection
25 (a), the landlord may evict the tenant.

26 (g) (Blank). Further, a landlord may give notice to a

1 ~~person that the person is barred from the premises owned by the~~
2 ~~landlord. A person has received notice from the landlord~~
3 ~~within the meaning of this subsection if he has been notified~~
4 ~~personally, either orally or in writing including a valid~~
5 ~~court order as defined by subsection (7) of Section 112A-3 of~~
6 ~~the Code of Criminal Procedure of 1963 granting remedy (2) of~~
7 ~~subsection (b) of Section 112A-14 of that Code, or if a printed~~
8 ~~or written notice forbidding such entry has been conspicuously~~
9 ~~posted or exhibited at the main entrance to such land or the~~
10 ~~forbidden part thereof. Any person entering the landlord's~~
11 ~~premises after such notice has been given shall be guilty of~~
12 ~~criminal trespass to real property as set forth in Section~~
13 ~~21-3 of the Criminal Code of 2012. After notice has been given,~~
14 ~~an invitation to the person to enter the premises shall be void~~
15 ~~if made by a tenant, lessee, or member of the tenant's or~~
16 ~~lessee's household and shall not constitute a valid invitation~~
17 ~~to come upon the premises or a defense to a criminal trespass~~
18 ~~to real property.~~

19 (Source: P.A. 96-1188, eff. 7-22-10; 97-1150, eff. 1-25-13.)